

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THOMAS J. PAULSON,	)	
	)	
Plaintiff,	)	Case No. C10-1662-RSM
	)	
v.	)	ORDER OF DISMISSAL
	)	
SNOHOMISH COUNTY, et al.,	)	
	)	
Defendants.	)	
	)	

This matter comes before the Court upon the Report and Recommendation (“R&R”) of United States Magistrate Judge Brian A. Tsuchida (Dkt. #16), Defendant O’Neal’s Motion to Dismiss and Motion to Bar the Filing of Additional Vexatious Complaints (Dkt. #15), Defendant Snohomish County’s Motion to Dismiss and Motion for Monetary Sanctions (Dkt. #18), Plaintiff’s Motion to Dismiss and Strike Defendants Pleadings and Order for Discovery (Dkt. #20), Plaintiff’s brief entitled, “Plaintiff is Canceling this Case as of November 20<sup>th</sup>, 2010 with Prejudice – I Have What I Need Now” (Dkt. #23), and all responses and replies thereto.

The Honorable Judge Tsuchida recommends that Mr. Paulson’s action be dismissed with prejudice under 28 U.S.C. §§ 1915(e)(2)(B)(i)-(ii) and 1915A(b)(1) because the claims are frivolous and because the complaint fails to state a claim upon which relief may be granted. Dkt. #16. Plaintiff has also requested that his action be dismissed with prejudice. Dkt. # 23 (“The

1 Plaintiff notes to this court he [is] cancelling this claim and lawsuit with prejudice.” (emphasis in  
2 original)). Defendants Snohomish County and Robert O’Neal do not object to the dismissal of  
3 this action, but request that additional sanctions be imposed on Plaintiff.

4 Mr. Paulson has filed three objections to the R&R. Dkt. #s 21, 22 & 26. In large part,  
5 Mr. Paulson’s objections do not address the bases for dismissal identified by Judge Tsuchida. To  
6 the extent that they do, they do not provide the Court with a basis to reject Judge Tsuchida’s  
7 recommendations. In any case, Plaintiff has since requested to dismiss this action with  
8 prejudice. Dkt. #23. Because Plaintiff has not provided the Court with any reason not to accept  
9 Judge Tsuchida’s recommendations, and because the parties have agreed to the dismissal of Mr.  
10 Paulson’s action, the Court hereby dismisses the instant lawsuit with prejudice.

11 Defendants ask the Court to count the present action as a “strike” against Mr. Paulson  
12 pursuant to 28 U.S.C. § 1915(g). This request is consistent with Judge Tsuchida’s Report and  
13 Recommendation which, as set forth below, the Court adopts in its entirety. Mr. Paulson has not  
14 objected to this aspect of the Report and Recommendation. Therefore, the instant lawsuit will be  
15 counted as a strike against Mr. Paulson pursuant to 28 U.S.C. § 1915(g).

16 Defendant Snohomish County also asks the Court to impose monetary sanctions  
17 against Plaintiff pursuant to 28 U.S.C. § 1927 and GR (b)(3) to deter him from abusing the  
18 judicial process and wasting the Court’s and the defendants’ time by filing frivolous actions.  
19 Dkt. #18. The imposition of monetary sanctions is at the Court’s discretion. *See In re Keegan*  
20 *Management Co. Securities Litigation*, 78 F.3d 431, 433-434 (9<sup>th</sup> Cir. 1996). Because Mr.  
21 Paulson proceeds *in forma pauperis*, the Court finds that the imposition of a monetary sanction  
22 would be unduly harsh and DENIES Defendant’s Motion for Monetary Sanctions.

23 Defendants also request that the Court impose an injunction barring Mr. Paulson from

1 filing future civil complaints. Defendant Snohomish County details at least three federal actions  
 2 previously brought by Mr. Paulson in connection with a similar set of facts as those at issue here.  
 3 Dkt. #18. In one of those cases, over 100 docket entries were filed. *Thomas J. Paulson v.*  
 4 *Snohomish County, et al.*, 09-cv-0377-JCC-BAT. Additional actions appear to have been filed  
 5 in state court as well. Dkt. #20 p. 2. Mr. Paulson's litigious behavior is certainly a cause for  
 6 concern. Nonetheless, the Court agrees with the Honorable Judge Tsuchida that an injunction  
 7 barring Mr. Paulson from filing any civil lawsuit would constitute an extreme remedy. Dkt. #16  
 8 p. 8. Pre-filing bar orders can tread on a litigant's due process right of access to the courts.  
 9 *Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 817 (4<sup>th</sup> Cir. 2004). *See also De Long v.*  
 10 *Hennessey*, 912 F.2d 1144 (9<sup>th</sup> Cir. 1990). Accordingly, the Court DENIES Defendants' request  
 11 for an injunction preventing Mr. Paulson from filing additional civil lawsuits.

12 The Court, having reviewed the Report and Recommendation of Brian A. Tsuchida,  
 13 United States Magistrate Judge, and the balance of the record, does hereby find and ORDER:

- 14 (1) The Court adopts the Report and Recommendation.
- 15 (2) The complaint and this action are DISMISSED with prejudice under 28 U.S.C. §§  
 16 1915(e)(2)(B)(i)-(ii) and 1915A(b)(1) because the complaint is frivolous and fails to  
 17 state a claim upon which relief may be granted.
- 18 (3) Defendant O'Neal's Motion to Dismiss (Dkt. #15) is Stricken as MOOT.
- 19 (4) Defendant O'Neal's Motion to bar plaintiff from filing future civil complaints (Dkt.  
 20 15) is DENIED.
- 21 (5) Defendant Snohomish County's Motion to Dismiss (Dkt. #18) is Stricken as MOOT.
- 22 (6) Defendant Snohomish County's Motion for Monetary Sanctions (Dkt. #18) is  
 23 DENIED.

1 (7) Plaintiff's Motion to Dismiss and Strike Defendants' Pleading is Stricken as MOOT.

2 (8) This dismissal constitutes a strike for purposes of 28 U.S.C. § 1915(g).

3 (9) The Clerk is directed to send copies of this Order to plaintiff and to Judge Tsuchida.

4 DATED this 10<sup>th</sup> day of December, 2010.

7 

8 RICARDO S. MARTINEZ  
9 UNITED STATES DISTRICT JUDGE